

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)

Act 523 of 1980

ARTICLE 8

32.1055 Cruel or unusual punishment prohibited; use of irons prohibited; exception.

Sec. 55. Punishment by flogging, branding, marking, or tattooing the body or any other cruel or unusual punishment, shall not be issued by a court-martial or inflicted upon a person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

History: 1980, Act 523, Eff. Mar. 31, 1981.

32.1056 Punishment and sentence; limits.

Sec. 56. The punishment which a court-martial may direct for an offense shall not exceed the limits prescribed by this code. If a sentence exceeds the limits prescribed by this code, the part of the sentence in excess of the limits shall have no force and effect and the sentence shall automatically be reduced to the limits prescribed by this code and shall not be changed as to form of punishment.

History: 1980, Act 523, Eff. Mar. 31, 1981.

32.1057 Sentence; forfeiture of pay or allowances; confinement; effective date; deferring service of sentence to confinement by governor; termination and rescission of deferment.

Sec. 57. (1) If a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. A forfeiture shall not extend to pay or allowances accrued before the date of sentence.

(2) A period of confinement included in the sentence of a court-martial begins to run from the date the accused is confined pursuant to the sentence. If a person has been confined before the sentence because the person was unable to furnish a bond for the offense, the court-martial shall specifically grant a credit against the sentence for the amount of time confined before sentencing. A period during which the sentence to confinement is suspended shall not be computed as service of the term of confinement and shall not affect the power of the convening authority to vacate the suspension during the current enlistment of the accused.

(3) Each sentence of a court-martial is effective on the date the sentence is ordered executed.

(4) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under the convening authority's jurisdiction, the governor may defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted the deferment or, if the accused is no longer under the officer's jurisdiction, by the governor.

History: 1980, Act 523, Eff. Mar. 31, 1981.

32.1058 Sentence of confinement; execution; discipline and treatment to which imprisoned person subject; omission of words "hard labor" from sentence; duty of keeper or officer in charge of county jail to receive or confine prisoner; form of writ; fine; commitment of accused upon failure to pay fine; form; proceeds of fines; costs of prosecution.

Sec. 58. (1) A sentence of confinement issued by a court-martial may be carried into execution by confinement in a place allowed by section 10 as designated by the convening authority. A person confined is subject to the same discipline and treatment as a person imprisoned by a civil court of the state.

(2) The omission of the words, "hard labor", from a sentence of a court-martial adjudging confinement does not deprive the authority executing that sentence of the power to require hard labor as a part of the punishment.

(3) The keeper or officer in charge of a county jail shall receive a person ordered into confinement before trial by the convening authority and a person sentenced to confinement by a military court and shall confine the persons according to law. A keeper or officer in charge shall not require payment of a fee or compensation for receiving or confining the prisoner.

(4) If a sentence of confinement is imposed, the convening authority shall issue a writ in the following or similar form:

STATE OF MICHIGAN)

)

COUNTY OF _____)

To duly authorized law officers of _____ county, state of
Michigan:

WHEREAS, _____ of _____ in the county
(name of accused) (unit designation)
of _____, a member of the Michigan national guard,
was on the ____ day of _____, 19____, tried by a court-martial
and found guilty of _____

(offense)
in violation of the Michigan code of military justice of 1979
and was sentenced to serve _____ days' imprisonment; and
WHEREAS, as the sentence was approved and ordered executed by the
convening authority on the ____ day of _____, 19____.

THEREFORE, you are commanded to take _____ and
(name of accused)
commit him or her to the keeper of the jail, who is commanded to
receive _____ and keep him or her safely

(name of accused)
for the term of ____ days, after which he or she shall be
released.

This writ shall be returned to the convening authority not later
than 60 days after the issuance of the writ.

Dated at _____ in the county of _____ this _____
day of _____, 19 ____.

(name, rank, branch, organization, and
designation as convening authority)

(5) A fine imposed as a sentence of a court-martial shall be paid at the time of approval of the sentence by
the convening authority. Upon failure to pay the fine, the convening authority shall order the accused
committed to a location designated pursuant to section 10 until the fine is paid or until 1 day is served for each
\$1.00 of the fine imposed.

(6) The commitment to the appropriate location will be in the following or similar form:

STATE OF MICHIGAN)

COUNTY OF _____)

To the sheriff of _____ county, state of
Michigan.

WHEREAS _____ of _____ in the
(name of accused) (unit designation)

county of _____, a member of the Michigan national
guard, was on the __ day of _____, 19__ tried by a
court-martial and found guilty of _____ in

(offense)
violation of the Michigan code of military justice of 1979 and was
sentenced to pay a fine of _____ dollars; and

WHEREAS, the fine has not been paid;

NOW, THEREFORE, by authority of the state of Michigan, you are
commanded to take _____

(name of accused)
and commit him or her to the keeper of the jail in the county of
_____, who is commanded to receive _____

(name of accused)
and keep him or her safely until he or she pays the sum above
mentioned, or shall have served 1 day for each \$1.00 of the fine
imposed, after which time he or she shall be released.

This writ shall be returned to the convening authority not later
than 60 days after the issuance of the writ.

Dated at _____ in the county of _____ this _____
day of _____, 19____.

(name, rank, branch, organization, and
designation as convening authority)

(7) The proceeds of all fines in summary, special, and general courts-martial cases shall be paid to the
general fund of this state. The costs of prosecution shall be paid out of the funds appropriated to the office of
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the adjutant general.

History: 1980, Act 523, Eff. Mar. 31, 1981.